IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.3649 of 2000

Between:

Guthula Suryanarayana Rao, S/o.late Seshayya, Hindu,

51 years, Proprietor-cum-Dealer, M/s.Maruthi Gas Agency,

Jayakrishnapuram, Rajahmundry.

..... PETITIONER

AND

1. The District Collector, East Godavari District, at Kakinada.

2. The Divisional Manager, Hindustan Petroleum Corporation,

Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any appropriate Writ, order or direction declaring the action of the 1st respondent in passing impugned order in Ref.V12/CS/177/2000 dated 26-2-2000 by suspending the Form 'B' licence of the petitioner in respect of M/s.Maruthi Gas Agency, Rajahmundry, as illegal, arbitrary and violative of principles of natural justice and for a consequential order directing the respondents to drop all further proceedings pursuant to the above impugned order.

Counsel for the Petitioner: MR.CH.DHANAMJAYA

Counsel for the Respondent No.1: GP FOR CIVIL SUPPLIES

Counsel for the Respondent No.2: MR. A.KRISHNA MURTHY, STANDING COUNSEL FOR H.P.C.

The Court made the following:

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ORDER:

The petitioner is the dealer of Indian Oil Corporation. He also obtained 'B' Form licence under A.P.Petroleum Products (Licensing and Regulation of Supplies) Order, 1980 (hereafter called 'the Control Order'). On 18.2.2000, the Inspector of Police (Vigilence Cell), Civil Supplies Department, Kakinada submitted a report to the District Collector, the first respondent herein, informing certain contraventions, namely, that the petitioner is not maintaining correct accounts and that he is not submitting the returns Form 'C' properly. Based on the said report, the respondent by impugned proceedings dated 26.2.2000 suspended the licence of the petitioner purporting to exercise of power under Clause 28(2) of the Control Order. It is now contended that without there being any action under Section 28(1) of the Control Order, the suspension of licence under Section 28(2) of the Control Order is illegal and unsustainable.

In **Narasimha Oil Supplies, IOC v. Joint Collector, West Godavari**, I have dealt with this aspect of the matter. It was observed therein that:

> Sub-clause (1) of Clause 28 empowers the authority to cancel or suspend the licence or registration certificate of a dealer of petroleum products, if he contravenes the provisions of the Control Order. No order of cancellation/suspension can however be passed unless licensee or the holder of registration certificate has been given a reasonable opportunity of representing his case in writing and also giving a personal hearing to the licensee or dealer. Clause 28(2) empowers the authority to pass an order of interim suspension if (i) there is action pending under sub-clause (1) and (ii) if for reasons to be recorded in writing the authority decides that licence or certificate of registration is required to be cancelled/suspended.

Yet again it was observed:

> In a given case issue of a show cause notice as per proviso to Clause 28(1) could be sufficient to show that action was initiated and pending under Clause 28(1). The same is not done and not even a show cause notice was issued. Straightaway, the impugned order was passed ignoring the mandatory requirement of Clause 28(2). Further, the authority is required to record reasons in writing. A reading of the impugned orders would show that no reasons are recorded by the Joint Collector except saying that in the circumstances reported by the Deputy Superintendent of Police/Inspector of Police ...., the impugned orders of suspension is being passed.

Applying the principles as above, it becomes clear that the impugned order is wholly unsustainable and accordingly, the writ petition is allowed.

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(V.V.S.RAO,J)

09.06.2005

YS

Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the acting Chief Justice on this Thursday, the Ninth day of June, 2005.

To

1. The District Collector, East Godavari District, at Kakinada.

2. The Divisional Manager, Hindustan Petroleum Corporation,

Visakhapatnam.

3. Two CCs to the Government Pleader for Civil Supplies,

High Court Buildings, Hyderabad. (OUT)

4. Two C.D. Copies.